

§ 2.10

29 CFR Subtitle A (7-1-04 Edition)

§ 2.10 Scope and purpose.

This subpart defines the scope of audiovisual coverage of departmental administrative hearings. It describes the types of proceedings where such coverage is encouraged, defines areas where such coverage is prohibited (as in certain enforcement proceedings or where witnesses object) and areas where a decision concerning coverage is made after weighing the values involved in permitting coverage against the reasons for not permitting it.

§ 2.11 General principles.

The following general principles will be observed in granting or denying requests for permission to cover hearings audiovisually:

(a) Notice and comment and on-the-record rule making proceedings may involve administrative hearings. If such administrative hearings are held, we encourage their audiovisual coverage.

(b) Audiovisual coverage shall be excluded in adjudicatory proceedings involving the rights or status of individuals (including those of small corporations likely to be indistinguishable in the public mind from one or a few individuals) in which an individual's past culpable conduct or other aspect of personal life is a primary subject of adjudication, and where the person in question objects to coverage.

(c) Certain proceedings involve balancing of conflicting values in order to determine whether audiovisual coverage should be allowed. Where audiovisual coverage is restricted, the reasons for the restriction shall be stated in the record.

§ 2.12 Audiovisual coverage permitted.

The following are the types of hearings where the Department encourages audiovisual coverage:

(a) All hearings involving notice and comment and on-the-record rule making proceedings. The Administrative Procedure Act provides for notice of proposed rule making with provision for participation by interested parties through submission of written data, views, or arguments, with or without opportunity for oral presentation (5 U.S.C. 553). (In many cases the Department follows the above procedure in

matters exempted from these requirements of 5 U.S.C. 553.) On-the-record rule making proceedings under 5 U.S.C. 556 and 557 are also hearings where audiovisual coverage of hearings is encouraged. Examples of hearings encompassed by this paragraph are:

(1) Hearings to establish or amend safety or health standards under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651.

(2) Hearings to determine the adequacy of State laws under the Occupational Safety and Health Act of 1970.

(b) Hearings to collect or review wage data upon which to base minimum wage rates determined under various laws, such as the Davis-Bacon Act (40 U.S.C. 276a) and related statutes and the Service Contract Act of 1965 (41 U.S.C. 353, as amended by Pub. L. 92-473 approved October 9, 1972).

(c) Hearings under section 4(c) of the Service Contract Act of 1965 (41 U.S.C. 353, subsection (c) added by Pub. L. 92-473 approved October 9, 1972) to determine if negotiated rates are substantially at variance with those which prevail in the locality for services of a character similar.

(d) Hearings before the Administrative Review Board (parts 1, 3, 5, and 7 of this chapter).

(e) Hearings held at the request of a Federal agency to resolve disputes under the Davis-Bacon and related Acts, involving prevailing wage rates or proper classification which involve significant sums of money, large groups of employees or novel or unusual situations.

(f) Hearings of special industry committees held pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. 201 *et seq.*) for the purpose of recommending minimum wage rates to be paid in Puerto Rico, the Virgin Islands, and American Samoa.

(g) Hearings pursuant to section 13(a) of the Welfare and Pension Plans Disclosure Act (29 U.S.C. 308d) to determine whether a bond in excess of \$500,000 may be prescribed.

(h) Hearings where the Department is requesting information needed for its administrative use in determining what our position should be (e.g., our